

on the evidence contained in the survey returns, applications adverse to the State for lands returned as swamp will be rejected unless accompanied by a showing that the land is non-swamp in character.

(b) In such case, the claim adverse to the State must be supported by a statement of the applicant under oath, corroborated by two witnesses, setting forth the basis of the claim and that at the date of the swamp-land grant the land was not swamp and overflowed and not rendered thereby unfit for cultivation. In the absence of such affidavit the application will be rejected. If properly supported, the application will be received and suspended subject to a hearing to determine the swamp or nonswamp character of the land, the burden of proof being upon the non-swamp claimant.

(c) In those States where the survey returns are not made the basis for adjudication of the swamp-land selections, junior applications for lands covered by swamp-land selections may be received and suspended, if supported by non-swamp affidavits corroborated by two witnesses, subject to hearing to determine the character of the land, whether swamp or non-swamp, and the burden of proof will be upon the junior applicant. Likewise, the State, if a junior applicant, may be heard upon furnishing an affidavit corroborated by two witnesses alleging that the land is swamp in character within the meaning of the swamp-land grant, in which case the burden of proof at the hearing will be upon the State.

(d) Where hearings are ordered in any such cases, the Rules of Practice governing contests will be applied, except as herein otherwise provided.

Subpart 2627—Alaska

SOURCE: 35 FR 9611, June 13, 1970, unless otherwise noted.

§ 2627.1 Grant for community purposes.

(a) *Authority.* The Act of July 7, 1958 (72 Stat. 339, 340), grants to the State of Alaska the right to select, within 25 years after January 3, 1959, not to exceed 400,000 acres of national forest lands in Alaska which are vacant and

unappropriated at the time of their selection and not to exceed 400,000 acres of other public lands in Alaska which are vacant, unappropriated, and unreserved at the time of their selection. The act provides that the selected lands must be adjacent to the established communities or suitable for prospective community centers and recreational areas. The act further provides that such lands shall be selected with the approval of the Secretary of Agriculture as to national forest lands and with the approval of the Secretary of the Interior as to other lands, and that no selection shall be made north and west of the line described in section 10 of the act without approval of the President or his designated representative.

(b) *Applicable regulations.* Unless otherwise indicated therein, the regulations in § 2627.3 (a) to (d) apply to the grant and selection of lands for community purposes. In addition to the requirements of § 2627.3(c), where the selected lands are national forest, the application for selection must be accompanied by a statement of the Secretary of Agriculture or his delegate showing that he approves the selection.

(c) *Approval of selections outside of national forests.* Selection of lands outside of national forests will be approved by the authorized officer of the Bureau of Land Management if, all else being regular, he finds that approval of a selection of lands adjacent to an established community will further expansion of an established community, or if the lands are suitable for prospective community centers and recreational areas.

§ 2627.2 Grant for University of Alaska.

(a) *Statutory authority.* The Act of January 21, 1929 (45 Stat. 1091), as supplemented July 7, 1958 (72 Stat. 339, 343; 43 U.S.C. 852 NOTE), grants to the State of Alaska, for the exclusive use and benefit of the University of Alaska, the unsatisfied portion of 100,000 acres of vacant, surveyed, unreserved public lands in said State, to be selected by the State, under the direction and subject to the approval of the Secretary of the Interior, and subject to the conditions and limitations expressed in the act.

(b) *Applications for selection.* (1) Applications to select lands under the grant made to Alaska by the Act of January 21, 1929, will be made by the proper selecting agent of the State and will be filed in the proper office of the district in which such selected lands are situated. Such selections must be made in accordance with the law and with the applicable regulations governing selection of lands by States as set forth in part 2620.

(2) Notice of selection and publication is required as provided by § 2627.5 (b) and (c).

(3) Each list of selections must contain a reference to the act under which the selections are made and must be accompanied by a certificate of the selecting agent showing the selections are made under and pursuant to the laws of the State of Alaska.

(4) The selections in any one list must not exceed 6,400 acres.

(5) Each list must be accompanied by a certification of the selecting agent stating that the acreage selected together with the cumulative acreage total of all prior sales for lists pending and finally approved for clear-listing or patenting does not exceed 100,000 acres.

(c) *Statement with application.* Every application for selection under the Act of January 21, 1929, must be accompanied by a duly corroborated statement making the following showing as to the lands sought to be selected.

(1) That no portion of the land is occupied for any purpose by the United States and that to the best of his knowledge and belief the land is unoccupied, unimproved, and unappropriated by any person claiming the same other than the applicant; and that at the date of the application no part of the land was claimed under the mining laws.

(2) That the land applied for does not extend more than 160 rods along the shore of any navigable water or that such restriction has been or should be waived. (See § 2094.2 of this chapter.)

(3) All facts relative to medicinal or hot springs or other waters upon the lands must be stated.

§ 2627.3 Grant for general purposes.

(a) *Statutory authority.* (1) The Act of July 7, 1958 (72 Stat. 339–343), referred

to in paragraphs (a) to (d) of this section as *the act*, grants to the State of Alaska the right to select, within 25 years from January 3, 1959, not to exceed 102,550,000 acres from the public lands in Alaska which are vacant, unappropriated and unreserved at the time of selection. The Act of September 14, 1960 (74 Stat. 1024), defines vacant unappropriated, unreserved public lands in Alaska to include the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or any specified mineral or minerals.

(2) The Act further provides that no selection shall be made in the area north and west of the line described in section 10 thereof (72 Stat. 345) without the approval of the President or his designated representative.

(b) *Lands subject to selection; patents; minerals.* (1) The Act as amended August 18, 1959 (73 Stat. 395), provides that any lease, permit, license, or contract issued under the Mineral Leasing Act of 1920 (41 Stat. 437; 30 U.S.C. 181 *et seq.*), as amended, or under the Alaska Coal Leasing Act of 1914 (38 Stat. 741; 30 U.S.C. 432 *et seq.*), as amended, referred to in this section as *the mineral leasing acts*, shall have the effect of withdrawing the lands subject thereto from selection by the State.

(2) Under the Act, the State may select any vacant, unappropriated, and unreserved public lands in Alaska, whether or not they are surveyed and whether or not they contain mineral deposits. For the purposes of selection, leases, permits, licenses, and contracts issued under the Mineral Leasing Acts of 1914 and 1920 will be considered an appropriation of lands. Where the preference provisions of § 2627.4(a) do not apply, selections by the State of lands covered by an application filed prior to the State selection will be rejected to the extent of the conflict when and if such application is allowed. Conflicting applications and offers for mineral leases and permits, except for preference right applicants, filed pursuant to the Mineral Leasing Act, whether filed prior to, simultaneously with, or after the filing of a selection under this part will be rejected when and if the selection is tentatively approved by the